

AMENDED IN SENATE AUGUST 4, 2014

AMENDED IN SENATE JUNE 24, 2014

AMENDED IN SENATE MAY 23, 2014

AMENDED IN ASSEMBLY JANUARY 29, 2014

AMENDED IN ASSEMBLY JANUARY 17, 2014

AMENDED IN ASSEMBLY JANUARY 6, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 919**

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**Introduced by Assembly Member Williams**

February 22, 2013

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An act to add Section 6018.2 to the Revenue and Taxation Code, relating to taxation, and making an appropriation therefor.

### LEGISLATIVE COUNSEL'S DIGEST

AB 919, as amended, Williams. Sales and use taxes: veterans: itinerant vendors: repayment.

Existing sales and use tax laws impose a tax on retailers measured by the gross receipts from the sale of tangible personal property sold at retail in this state, or on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer for storage, use, or other consumption in this state, measured by sales price. That law, with certain exceptions, defines a retailer as a seller who makes any retail sale of tangible personal property and as a person who makes more than 2 retail sales of tangible personal property during any 12-month period, and defines a retail sale as a sale of tangible personal

property for any purpose other than resale in the regular course of business.

Existing law, from April 1, 2010, to January 1, 2022, provides that a qualified itinerant vendor, as defined, is a consumer, and not a retailer, of tangible personal property owned and sold by the qualified itinerant vendor, except for alcoholic beverages or items sold for more than \$100, so that the retail sale subject to tax is the sale of tangible personal property to the qualified itinerant vendor and not the sale by the qualified itinerant vendor.

This bill would provide a procedure for a qualified veteran, who is a person who met specified requirements for being a qualified itinerant vendor, to submit a claim for qualified repayments, as defined, with the State Board of Equalization, as provided. This bill would, on or before March 1, 2016, require the board to certify to the Controller the amount of qualified repayments to be made to each qualified veteran, and would appropriate \$50,000 from the General Fund to the ~~Controller~~ board to make the payments of qualified repayments. This bill would limit the total amount of money available to make qualified repayments to not more than \$50,000. This bill would require the board to report to the Joint Legislative Budget Committee, the Assembly Committee on Revenue and Taxation, and the Senate Committee on Governance and Finance, the name of each qualified veteran who was issued a qualified repayment and the amount of the qualified repayment ~~and would also require the board to report to the Controller the amount remaining, or that no amount remains, from the amount appropriated to the Controller after making qualified repayments.~~ This bill would require the Controller to transfer *any balance remaining from the amount, if any,* reported to the Controller back to the General Fund.

This bill would make findings regarding the public purpose served by the bill.

Vote:  $\frac{2}{3}$ . Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Prior to the enactment of Chapter 621 of the Statutes of 2009
- 4 (Senate Bill 809 of the 2009–10 Regular Session), which became
- 5 operative on April 1, 2010, there was considerable uncertainty

1 among honorably discharged veterans with respect to their  
2 responsibilities under California's Sales and Use Tax Law. These  
3 veterans relied upon Section 16102 of the Business and Professions  
4 Code, which exempts honorably discharged veterans from payment  
5 of any license, tax or fee whatsoever, for their sales of goods,  
6 wares, or merchandise owned by them (except alcoholic  
7 beverages), and as a result, failed to pay sales tax or to collect sales  
8 tax reimbursement on their retail sales.

9 (b) This uncertainty resulted in deficiency assessments by the  
10 State Board of Equalization against these veterans and subsequent  
11 payments to the board by these veterans of the tax, interest, and  
12 penalty for amounts that the board determined to be due.

13 (c) For the public purpose of assuring equity in the payment of  
14 sales tax among qualified veterans for tangible personal property  
15 owned and sold by those veterans for one hundred dollars (\$100)  
16 or less, excluding alcoholic beverages, it is the intent of the  
17 Legislature that the sales tax, interest, and any penalties paid by  
18 these veterans on those sales during the period on and after April  
19 1, 2002, and before April 1, 2010, for which there was no sales  
20 tax reimbursement collected from customers, be repaid in  
21 accordance with the provisions of this act.

22 SEC. 2. Section 6018.2 is added to the Revenue and Taxation  
23 Code, to read:

24 6018.2. (a) A qualified veteran may receive from the state a  
25 qualified repayment if all provisions of this section are satisfied.

26 (b) The procedures set forth in this section shall be the procedure  
27 and remedy for the claims for a repayment of taxes, interest, or  
28 penalties paid by a qualified veteran under the Sales and Use Tax  
29 Law (Part 1 (commencing with Section 6001)), Section 35 of  
30 Article XIII of the California Constitution, local sales tax imposed  
31 in accordance with the Bradley-Burns Uniform Local Sales and  
32 Use Tax Law (Part 1.5 (commencing with Section 7200)), and  
33 local transactions and use taxes imposed in accordance with the  
34 Transactions and Use Tax Law (Part 1.6 (commencing with Section  
35 7251)) during the eight-year period beginning on and after April  
36 1, 2002, and before April 1, 2010.

37 (c) (1) For purposes of this section, a "qualified veteran" means  
38 a person who meets all of the following requirements:

1 (A) The person met the requirements of a qualified itinerant  
2 vendor as set forth in Section 6018.3 during the period in which  
3 the sales were made.

4 (B) The person paid to the board taxes imposed under the Sales  
5 and Use Tax Law (Part 1 (commencing with Section 6001)),  
6 Section 35 of Article XIII of the California Constitution, taxes  
7 imposed in accordance with the Bradley-Burns Uniform Local  
8 Sales and Use Tax Law (Part 1.5 (commencing with Section  
9 7200)), and transactions and use taxes imposed in accordance with  
10 the Transactions and Use Tax Law (Part 1.6 (commencing with  
11 Section 7251)) during the period beginning April 1, 2002, and  
12 before April 1, 2010, for which no sales tax reimbursement was  
13 collected from customers, and also paid any interest or penalties  
14 associated with those tax liabilities.

15 (2) "Qualified repayment" means an amount equal to the amount  
16 described in subparagraph (B) of paragraph (1), less any amounts  
17 previously refunded, credited, or paid to a qualified veteran through  
18 any means whatsoever.

19 (d) (1) Before January 1, 2016, a qualified veteran may file a  
20 claim for a qualified repayment with the board.

21 (2) The claim shall be in writing, and shall be completed in  
22 accordance with any instructions or regulations as the board may  
23 prescribe, including, but not limited to, proof of payment of the  
24 tax, interest, or penalties described in subparagraph (B) of  
25 paragraph (1) of subdivision (c).

26 (3) On or before March 1, 2016, the board shall certify to the  
27 Controller the amount of qualified repayments to be made to each  
28 qualified veteran pursuant to this section. The total amount of  
29 money available to make qualified repayments shall not exceed  
30 fifty thousand dollars (\$50,000). If the total amount of claims filed  
31 exceeds fifty thousand dollars (\$50,000), the board shall determine  
32 the pro rata share due to each qualified veteran based on the  
33 proportion each claim bears to the total amount of claims and shall  
34 report that amount for certification.

35 (4) There is hereby appropriated fifty thousand dollars (\$50,000)  
36 from the General Fund to the ~~Controller~~ *board* to make the  
37 payments of qualified repayments to qualified veterans.

38 (5) No interest shall be paid on any qualified repayment made  
39 pursuant to this section.

1 (6) (A) On or before May 1, 2016, the board shall report both  
2 of the following:

3 (i) ~~To~~ to the Joint Legislative Budget Committee, the Assembly  
4 Committee on Revenue and Taxation, and the Senate Committee  
5 on Governance and Finance, the name of each qualified veteran  
6 who was issued a qualified repayment pursuant to this section and  
7 the amount of the qualified repayment.

8 (ii) ~~To the Controller, the amount remaining, or that no amount~~  
9 ~~remains, from the amount appropriated to Controller pursuant to~~  
10 ~~paragraph (4) after making qualified repayments.~~

11 (B) The requirement for submitting a report imposed under  
12 subparagraph (A) is inoperative on May 1, 2020, pursuant to  
13 Section 10231.5 of the Government Code, and *the report* shall be  
14 submitted in compliance with Section 9795 of the Government  
15 Code.

16 (7) ~~The~~ Upon notification by the board, the Controller shall  
17 transfer *any balance remaining from* the amount, ~~if any, reported~~  
18 ~~to the Controller pursuant to clause (ii) of subparagraph (A) of~~  
19 ~~paragraph (6), appropriated in paragraph (4)~~ back to the General  
20 Fund.

21 SEC. 3. The Legislature finds and declares that the addition of  
22 Section 6018.2 of the Revenue and Taxation Code by this act  
23 serves a public purpose, as described in Section 1 of this act, and  
24 does not constitute a gift of public funds within the meaning of  
25 Section 6 of Article XVI of the California Constitution.